

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Wallace James Beaulieu,

Civil No. 14-1057 (DWF/JSM)

Petitioner,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

State of Minnesota,

Respondent.

This matter is before the Court upon Petitioner Wallace James Beaulieu's ("Petitioner") objections (Doc. No. 5) to Magistrate Judge Janie S. Mayeron's April 29, 2014 Report and Recommendation (Doc. No. 4) insofar as it recommends that Petitioner's application for a writ of habeas corpus be denied. The Minnesota Attorney General's Office filed a responsive letter (Doc. No. 8), which Petitioner has moved to strike (Doc. No. 10).¹ Petitioner has also moved to amend his Petition. (Doc. No. 9.)

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Petitioner's objections. Having carefully reviewed the record, the Court

¹ The Court notes that, with or without the letter from the Minnesota Attorney General's Office, its decision here would be the same.

concludes that Petitioner's objections offer no basis for departure from the Report and Recommendation.

Petitioner appears to generally object to the Magistrate Judge's recommendation that this case be summarily dismissed. (*See generally* Doc. No. 5.) The undersigned agrees with the Magistrate Judge's determination that Petitioner's 1990 state criminal conviction is not reviewable by this Court because Petitioner is no longer in custody or serving his sentence with respect to that conviction. (*See* Doc. No. 4 at 3-6.) The Court has also reviewed Petitioner's additional filings. (*See* Doc. No. 9.) Even taking into consideration the additional allegations contained within Petitioner's motion to amend, Petitioner still has not demonstrated that he is in custody on his state court criminal conviction for the reasons stated in the Report and Recommendation.² (*See id.*) The Court thus concludes, as did Magistrate Judge Mayeron, that the Petition is properly denied and this case must be dismissed for lack of jurisdiction.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

² Nor has Petitioner, for that matter, presented evidence to establish actual innocence of the crime for which he was convicted.

ORDER

1. Petitioner Wallace James Beaulieu's objections (Doc. No. [5]) to Magistrate Judge Janie S. Mayeron's April 29, 2014 Report and Recommendation are

OVERRULED.

2. Magistrate Judge Janie S. Mayeron's April 29, 2014 Report and Recommendation (Doc. No. [4]) is **ADOPTED**.

3. Petitioner's Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus (Doc. No. [1]) is **DENIED**.

4. This action is **DISMISSED FOR LACK OF JURISDICTION**.

5. Petitioner is **NOT** granted a Certificate of Appealability.

6. Petitioner's application for leave to proceed *in forma pauperis* (Doc. No. [2]) is **DENIED AS MOOT**.

7. Petitioner's Motion to Amend Petition for Writ of Habeas Corpus (Doc. No. [9]) is **DENIED AS MOOT**.

8. Petitioner's Motion to Strike Response of Attorney General (Doc. No. [10]) is **DENIED AS MOOT**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: July 23, 2014

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge